

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

LORENZO CHAMBERS,

Plaintiff,

-v-

9:20-CV-128

LT. D. MASON and
CO D. SMITH,

Defendants.

APPEARANCES:

OF COUNSEL:

LORENZO CHAMBERS

Plaintiff, Pro Se

17-A-0954

Collins Correctional Facility

P.O. Box 340

Collins, NY 14034

HON. LETITIA JAMES

New York State Attorney General

Attorneys for Defendants

The Capitol

Albany, NY 12224

JONATHAN REINER, ESQ.

Ass't Attorney General

DAVID N. HURD

United States District Judge

ORDER ON REPORT & RECOMMENDATION

On February 6, 2020, *pro se* plaintiff Lorenzo Chambers (“plaintiff”), an inmate in the custody of the New York State Department of Corrections and Community Supervision (“DOCCS”), filed this 42 U.S.C. § 1983 action alleging that defendants failed to protect him from two inmate assaults. Dkt. No. 1. Plaintiff also sought leave to proceed *in forma pauperis* (“IFP Application”). Dkt. Nos. 2, 3. After some procedural wrangling that involved the dismissal of certain defendants, plaintiff amended his complaint and the remaining parties conducted discovery on his civil rights claims. Dkt. Nos. 6, 7, 9, 10. Thereafter, defendants Lt. D. Mason and C.O. D. Smith moved for summary judgment on plaintiff’s claims. Dkt. No. 23.

On December 3, 2021, U.S. Magistrate Judge Daniel J. Stewart advised by Report & Recommendation (“R&R”) that defendants’ motion be granted and that plaintiff’s claims be dismissed because he failed to exhaust his administrative remedies. Dkt. No. 32. Although defendants also moved in the alternative for a dismissal on the merits, Judge Stewart did not address those arguments in light of his threshold finding about exhaustion. *Id.* at 9 n.1.

Plaintiff has not filed any objections, and the time period in which to do so has expired. Upon review for clear error, the R&R is accepted and will be adopted. *See* FED. R. CIV. P. 72(b).

Therefore, it is

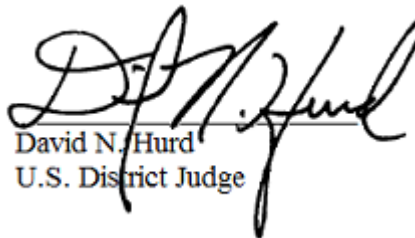
ORDERED that

1. The Report & Recommendation is ACCEPTED;
2. Defendants' motion for summary judgment is GRANTED; and
3. Plaintiff's amended complaint is DISMISSED.

The Clerk of the Court is directed to enter a judgment accordingly and close the file.

IT IS SO ORDERED.

Dated: January 3, 2022
Utica, New York.



David N. Hurd
U.S. District Judge